

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,

Plaintiff,

v.

THE FINISH LINE, INC.,

Defendant.

CIVIL ACTION NO.

1 : 10-cv-1686

JMS MJD

JURY TRIAL DEMAND

COMPLAINT

This is an action under Title I of the Americans with Disabilities Act of 1990 (“ADA”), as amended, ADA Amendments Act of 2008 (ADAAA”), and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of disability, and to provide appropriate relief to Emma Armon (“Armon”), who was adversely affected by such practices. The Equal Employment Opportunity Commission (“EEOC”) alleges that Finish Line, Inc. (“Defendant”) failed to select her, despite her qualified status, for an available Customer Service Representative position, to which she sought transfer as a reasonable accommodation and instead discharged her in favor of equally and less qualified individuals, in violation of the ADA.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (“Title VII”), as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and pursuant to § 102 of the Civil Rights of Act of 1991, 42 U.S.C. § 1981(a).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States Court for the Southern District of Indiana, Indianapolis Division.

PARTIES

3. Plaintiff, the EEOC, is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) and Section 503(a) of the ADA, 42 U.S.C. §§ 12117(a) and 12203(c), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. Defendant is a for-profit domestic corporation incorporated in the State of Indiana. At all relevant times, Defendant has been doing business in the State of Indiana and the City of Indianapolis, and has continuously had at least 15 employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Armon filed a charge with the EEOC alleging violations of the ADA, as amended. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least May 2009, Defendant has engaged in unlawful employment practices in violation of Sections 102 of the ADA, as amended, 42 U.S.C. § 12112 (a) and (b), by

failing to select Armon, who has a physical impairment related to a right shoulder injury, when she sought to transfer to an available Customer Service Representative position as a reasonable accommodation and instead discharged her in favor of equally and less qualified individuals.

9. The effect of the unlawful employment practices complained of above has been to deprive Armon of equal employment opportunities and otherwise adversely affect her status as an employee.

10. The unlawful employment practices complained of in the paragraph 8 above were intentional.

11. The unlawful employment practices complained of in the paragraph 8 above were done with malice or with reckless indifference to the federally protected rights of Armon.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from refusing to hire qualified individuals with disabilities or from engaging in any other employment practice which discriminates on the basis of disability.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices

C. Order Defendant to make Armon whole, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement of Armon or order an award of front pay in an amount to be proved at trial if

instatement is impractical.

D. Order Defendant to make whole Armon by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in the paragraphs above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, and job search expenses in amounts to be determined at trial.

E. Order Defendant to pay Armon punitive damages for its malicious and reckless conduct, as described above, in an amount to be determined at trial.

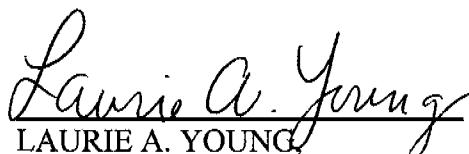
F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,


LAURIE A. YOUNG,
Regional Attorney, #11480-49
by permission aem


MICHELLE EISELE,
Supervisory Trial Attorney, #12070-49
by permission aem



Aimee L. McFerren

Kentucky Bar No.: 89912

Federal I.D. No.: 36953

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

600 Dr. Martin Luther King, Jr. Place

Suite 268

Louisville, KY 40202

502-582-6308

502-582-5435 (fax)

aimee.mcferran@eeoc.gov